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REPORT OF THE TRIAL OF PATRICK CRANE, FOR THE MURDER OF LUKE RICHARD.

In the Court of Vice Admiralty, Halifax Nova-Scotia.

Tuesday, May 22.—The Court met, the new Commission was read, and the following Commissioners were sworn: Judges Haliburton and Uniacke, Hon. T. N. Jeffery, Hon. H. H. Cogswell, Hon. S. Cunard, and Hon. James Tobin.

After about an hour's consultation, the Grand Jury returned a True Bill against Patrick Crane; the Prisoner was arraigned, pleaded *Not Guilty*, and Thursday was fixed as the day on which his trial should take place.

On Thursday, May 24, the Commissioners again met in the Court House, Province Building, and took their seats on the Bench. Mr. James Uniacke, counsel for the Prisoner, rose, and said, that before the Jury were called, he wished to state, he understood that Walsh, one of the witnesses whose depositions were taken, and whose testimony was of consequence to his client, was at Antigonish. And the prisoner did not wish to be put on his trial, deprived of this evidence in his favour. The prisoner's brother had also been in Halifax, since his committal, and had subsequently gone to Newfoundland, promising to return with proof that the prisoner had received a severe wound on the head, by a fall on the ice, and that it had occasioned fits of insanity. This evidence had not yet been obtained, but he hoped if the Court were to adjourn to some future day, that it could then be produced. Judge Haliburton expressed the extreme unwillingness of the Court to unnecessarily hurry the trial now, after the long confinement of the prisoner, or to deprive him of any opportunity of procuring evidence in his behalf. The Attorney General expressed a similar disposition, and stated his desire that Walsh could be found, he was a witness for the Crown, as well as for the prisoner. He, the Attorney General, had written to the Sheriff of the district, where he supposed Walsh was, to send him on to Halifax. He could not state any cause for his non-appearance.

After some conversation, the Court were disposed to adjourn to the third Wednesday in June, and the Attorney General was arranging with the other witnesses for their appearance at that time, when Mr. Cavanagh, Cape Breton, who in the mean time had entered the Court, informed the High Sheriff that he had seen Walsh landing from a Guysborough vessel six or eight days previously. This announcement altered the views of the Court respecting a lengthy adjournment, and it finally adjourned to next morning, to allow the Counsel both for prosecution and defence, opportunity for the discovery of Walsh.

Friday, May 25.—The Court again sat, and were informed that Walsh had not been found, although he had been seen in Halifax three days previous. The Attorney General remarked that as no information appeared respecting Walsh, on which to ground a further adjournment, and as delay might occasion the absence of the other witnesses on a future day, it seemed advisable for the trial to be proceeded with; the Court could consider any objections which might be made in the prisoner's favour, on account of the absence of Walsh. The Court fully acquiesced in this opinion, and ordered the Jury to be called. The following gentlemen were called, and took their seats in the Jury box.

Messrs. McKinley, Conroy, Smith, Harrison, Harney, Robinson, Rugg, Knox, Croskill, Hamilton, Brehm, McLean.

The prisoner was informed that if he had any objection to any of the Jury, he might challenge accordingly, and in place of those objected to, others would be called.

The prisoner looked at the Jury box, and said that he had no objection to any of the gentlemen, and that he was satisfied they would do him justice.

Mr. Uniacke [prisoner's counsel] rose, and said that the prisoner was a stranger in Halifax, but that as his counsel, he felt bound to state that two of the gentlemen

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in the Jury box, had expressed their sentiments on this subject, and he therefore would object to their trying the case. These were Mr. Robinson and Mr. Knox.

Accordingly, when these gentlemen were called to be sworn, the prisoner, with evident reluctance, challenged, and they left the box; two others, Messrs. Wright, and Creed, being called in their place. Mr. Crosskill requested leave to withdraw also, as he had conscientious scruples against being a Juror in this case. The Court remarked that the duty was a painful one to all concerned in it, but that nothing save a challenge of the prisoner could excuse a juror's withdrawal from the box. The Jury were sworn, and they appointed Mr. Wright as their foreman.

The indictment was read. The witnesses, at the suggestion of Mr. Uniacke, were sent out of court before the Attorney General opened the case.

Mr. Archibald, the King's Attorney General for Nova Scotia, commenced his address to the jury; which was to the following effect.

Gentlemen, The present Commission has been opened in the name of his Majesty, and under the great seal of England. Ample power is given to the Commissioners, to try crimes, committed on the high seas, within the jurisdiction of the Admiral of England and in other places. It is not necessary for me to dwell on the power thus provided, but would state that it is most ample for the trial of such a case as that now under consideration.

The Grand Jury found a bill against the prisoner for the murder of Luke Richard, while about three leagues off Cape Breton. The particulars of this charge you heard stated in the indictment, and to this the prisoner pleaded not guilty, and put himself on his trial before God and his country; which country, gentlemen, you are.

Your duty gentlemen, is to pronounce on his life or death, under the directions of the Court, as to the evidence brought forward in this case.

It is not necessary to go into many explanations in the present case; no distinction need be drawn here between murder and man-slaughter; the act charged is either murder or no offence whatever. The crime of murder consists in killing a reasonable creature, with malice expressed or implied. To constitute the crime it must be committed by a person endowed with reason, not by an idiot, maniac, or lunatic. By *malice aforethought*, is meant, that the offence is committed in a wicked spirit, with a mind bent on mischief; or as it is well set forth in the old words of the law, by a person who has not the fear of God before his eyes, and who is moved by the Devil. *Express Malice* is proved by expressions or other intimations of evil intent against the party injured; but where this does not appear, the law *implies* malice, if the contrary is not proved by the showing of the prisoner.

In this case all we are called on to do, is to prove the homicide, it is for the prisoner to show excuses for the crime if any exist. I consider the witnesses for the Crown entitled to your fullest belief; they exhibit no prejudice against the prisoner, and will describe the whole transaction from their first acquaintance with him, to the perpetration of the offence.

The vessel, in which the act under consideration took place, belonged to this Province. She was in Newfoundland in July last, having a crew consisting of a Captain, a man, a lad of nearly mature age, and a boy. Some money was taken on board the vessel to be brought to Cape Breton; the prisoner and Walsh, the absent witness, took passage in her for this province. In the course of 17 days they made the Island of Cape Breton; they were bound for Arichat, but the Captain not knowing the land on coming in sight of it, took a boat, and accompanied by the prisoner and others, landed to make enquiries. Finding that it was not exactly the port which they were bound for, they returned on board, and stood out to sea. Up to this time the prisoner's conduct seemed perfectly correct and proper. On the 18th day, as they were standing out, Prisoner addressed one of the witnesses, and, pointing to some rocks, asked was he not afraid of them. Witness answered no, and enquired in return was the prisoner. Prisoner answered yes, and said that he thought the Captain wanted to cast the vessel away. That evening all retired to the cabin to rest; when the crew went down they found the prisoner in bed. A Musket had been loaded some days before, and the prisoner had snapped it at sea-fowl, but it did not go off, on account of a piece of blue paper which was laid over the pan. This gun was suspended near the prisoner's birth. After night-fall on the evening alluded to, as the Captain was about to retire to his birth, having attended to his devotions, the prisoner discharged the Musket at him. The whole

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charge of shot took effect, and lodged in the loins of the Captain; he fell backward, but succeeded in rising and crawling on deck, and exclaimed "he has killed me!" Of this wound he soon expired. The witness Lavigny, started up when the shot was fired, and feeling the gun across his breast, seized it, and wrested it from the prisoner. Walsh called out to witness to take care, for Crane, the prisoner, had an open knife in his hand, it was now quite dark; Lavigny was slightly cut by the knife. Crane was secured by tying his hands and feet. When the Captain's body was brought down, and prisoner was interrogated as to his motive for committing such a crime, he said, that the Captain was going to shoot him; and at another time said that the Captain was going to cast away the vessel; and on these accounts he thought proper to shoot him.

For this offence, the prisoner has remained in custody up to the present time. This long confinement is to be regretted, but could not be avoided; it was occasioned by waiting for the Commission, by which this Court is constituted. I hope that the prisoner has made better use of the time thus spent, than he did of that which preceded it.

The fact being established, that the deceased came to his death as described, then gentlemen you will have to enquire into the cause of this act. If you find the prisoner guilty according to the indictment, you must say so. The law of God* and man require that the murderer's blood be shed, to cleanse the land of guilt. I would not enlarge further on this occasion, were I not aware, that the prisoner's Counsel intends to set up the plea of insanity. I will therefore mention a few rules of law on that point, that the prisoner may have their benefit or not, as his case may demand.

If a crime be committed without the exercise of reason or memory, or consent of the will, the person so acting cannot be held responsible, or be found guilty. But of this there must be evidence. In our law such a person is said to be *non compos mentis*, and under this is comprised all the variety of diseases of the mind; whether, *natural*, adventitious or acquired. Under the first comes Idiocy, which is a disease commencing with life. But the law holds deaf and dumb persons responsible for their actions, if they show any symptoms of rational power. Under the title *adventitious* are classed the various degrees of lunacy temporary or permanent; and under the title *acquired*, are fits of phrenzy, occasioned by drunkenness. These latter will not excuse crime, except the disease becomes extreme, and amounts to a total deprivation of reason. In other cases the law holds the offender responsible for his actions; it only exonerates where the offender is not aware of committing any offence. These points must be calmly and clearly investigated. Melancholy minds, and persons subject to minor delusions are held accountable; and it may be remarked, that every felon is under a degree of insanity when he commits crime. The entire dominion of mental disease, is alone sufficient to excuse an offender against the law. The Prisoner's case does not seem one of this description. There must be more than absence of motive, or a fit of frenzy, particularly after the act, to entitle him to the benefit of the plea set up. If care were not taken in this particular, prisoners would generally endeavour to bring their case within that dark circle of human reason which would afford them shelter. Great caution must be used, not to punish where the person charged with crime was not conscious of the act which he committed; and on the other hand, not to open a door to the perpetration of great offences. The state of intellect which would authorise a commission of lunacy as regards property, is not sufficient to exonerate in criminal cases. For the latter a complete aberration of mind at the time of committing the act is necessary.

Much depends on the good sense of the Jury in these cases. Insanity must not be implied, because no motive appears for the commission of crime; the law assigns such cases to malice. The evidence in the present case, does not come within any which I have ever met with, in which insanity was taken as an excuse. The prisoner acted as if under the influence of his senses, he was not generally fancying that which did not exist, but proceeded according to the ordinary circumstances in which he was placed. The Jury are bound to apply the law as it is expounded. Evidence of wildness or recklessness is not sufficient; the prisoner must be proved

*The Attorney General must here have alluded to the Jewish law. The Christian code, as delivered in the New Testament, does not seem to authorize revenge or bloodshedding in any case.

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to be completely under the influence of delusion at the time when the offence was committed, before the plea set up can avail him. Or previous occasional insanity, carried down to the time of this act, must be shewn in evidence. The prisoner's case does not come under any of those which I have enumerated; and it must depend on his conduct just before and after; not on any frenzy which might arise from the act itself. As I said before, all felony is partial insanity, committed without the fear of God, and instigated by the devil; which words imply an absence of proper sense in the perpetrator. I would not press on this point further than my duty to the public obliges me. We would all be happy, to discover some course by which the Prisoner could with propriety be discharged. But if he cannot be so discharged, he should not be discharged at all. Our duty is to act clearly and calmly, not swayed by mistaken humanity, or prejudice of any kind; and I am sure, gentlemen, that you will perform your duty judiciously, and according to the dictates of a good conscience.

The Attorney General's address being concluded, George Lavigny, Acadian Frenchman, was called. Before the examination of the witnesses, Mr. Cavanagh was sworn in as interpreter, and took his seat in the witness box.

George Lavigny, examined, by the Solicitor General, deposed as follows. Luke Richard was master of the schooner *Margurie*. She belonged to Torbay, but was owned by some person in Halifax. She was at St. Johns Newfoundland last summer, thinks it was about the month of July. She sailed from St. Johns to Cape Breton, she was bound to Prince Edward Island, and was to call at Harbour Bouche. When she sailed from St. Johns, there were on board, the Master, the witness himself, B. Richard, and Charles Richard the boy; and the prisoner and Walsh who were passengers. The Prisoner and Walsh came on board together at St. Johns, and were to be landed on Prince Edward Island. They had provisions and ballast on board, no freight. They made land first at Gaberous, on a Sunday, being about 12 days after sailing. They did not know what land it was. The Captain and witness got into the boat to go ashore, prisoner jumped in after them, and all went together. They made the necessary enquiries on shore, and staid about a quarter of an hour. They returned on board, and being overjoyed at making so good a land fall, the Captain gave each a glass of grog. They were embayed, and made three or four tacks. The wind was south-east, fair, but died away in the afternoon. They stood out to sea that evening. It was witness's watch on Sunday night, and the prisoner staid with him on deck the greater part of the night, but went down to the cabin occasionally to light his pipe. They took but little liquor in the afternoon, there were but about four glasses on board altogether, each man took about half a glass. On Monday evening they were off Fourchou; they stood out to sea again. On that day witness lay down to take a nap after his watch, it was the Captain's turn on deck. During the day the prisoner brought his gun on deck, and said it was six years since he used one, and that he wanted to fire at some fish which were near the vessel. Witness was steering at this time, it was about one or two o'clock. Witness told prisoner to go fire at a bird which was under the bows. He snap'd the gun but it did not go off. Witness saw a piece of blue paper over the pan of the gun, when it was brought on deck, and saw the paper on the pan after it was snapped. The gun belonged to prisoner, he brought it on board at St. Johns. The gun was loaded below, not by the prisoner. Witness examined the gun when it missed fire; prisoner said he did not know why it snapped. Witness showed him how to make the spring better, by putting a piece of wood under it; Prisoner did as he was told, and said he thought it would do now. About 8 o'clock a'l went down to the cabin, except Benjamin, who was at the helm. All were done their supper, the crew took theirs first, and left the cabin to the passengers to take theirs. Crane did not come on deck after supper, Walsh did, and prisoner called him to go down. The crew went down about 8 o'clock, altogether, except Benjamin. At this time prisoner was lying in his birth, at the left side of cabin, his head was raised up. Walsh was sitting by the fire, at the side the Captain was sitting, but came over to the other side, while witness was saying his prayers. He was near the prisoner's feet. A table was between the captain and the prisoner, a candle or lamp was lighting. Prisoner had his jacket and handkerchief off. Witness saw a flash in his face, and the contents of the musket passed over his head, while he was on his knees. The moment before he turned round his head, and saw the Captain settling the bed clothes of his birth, he thinks the Captain had finished saying his prayers. Witness heard no conversation between

prisoner and Captain. Witness's head was down and turned to the stern when the shot was fired. When he heard the report he started up, and found the gun across his breast. He seized it. The light was out, and all were in darkness. The gun was in the direction of the Captain, and was in the hands of the prisoner. Witness wrested it from him, and had to struggle before he got it. Prisoner was sitting up, with his feet resting on the seat below. Witness called the boy to bring a light, who brought one without delay. When the gun was discharged he heard the Captain fall, heard nothing else for a moment after; Captain then cried out "Oh! my God, my Jesus, he has killed me, he has shot me." When light was brought Captain was going up the companion ladder. The boy cried out "Oh my God, Luke is shot." After getting the gun from Crane, witness asked him, what he did that for; he said, the Captain wanted to kill him. The Captain got up the ladder, and held by the companion door, the lad who was steering helped him on deck. Blood was gushing from him, and streaming into the cabin; he was wounded in the small of the back; he lived about three quarters of an hour in great agony. Witness remained below to secure the prisoner. Prisoner struggled first, and then put his hands together and told witness to tie them. Walsh held him while witness tied his arms. Witness can't say but that Walsh rendered him assistance freely. Witness did not see the gun loaded, Captain told it to be loaded to fire at porpoises. Witness understood the gun was brought on board by the prisoner. The Captain had a gun of his own which was kept over his birth. Prisoner's gun used to be kept under a birth next to where he lay; he could not have reached it from where he slept. Prisoner lay in the after-birth. When prisoner was tied, he was put in the hold, which was then fastened down; it was not opened until they were going in to Arichat; when they opened it, prisoner was loose. They were about three leagues from it when Captain was shot. He was sure that the wound was given to the Captain by the prisoner. There was but about £8 or £10 in money on board the vessel.

The same witness *cross-examined* by Mr. Uniacke, Prisoner's Counsel.

The schooner was owned in Halifax, he does not recollect the owner's name. The Captain told him that she was insured, for £200; he (the witness) would not give more for her than £150. They brought lumber, outs and potatoes to Newfoundland; they got no return cargo, the man who gave them a freight down, would not give them a freight back, he had engaged another vessel. They were about 12 days out before they made Gaberous, prisoner was not expected to go on shore there. On returning to vessel after enquiring what land they had made, they only drank about half a glass of rum each. Benjamin loaded the gun for the master, the Captain snapped it at porpoises. Prisoner attempted to discharge it afterwards; a piece of blue paper was on the pan when the prisoner brought it on deck. This was on Monday, it was on the Friday before that the Captain snapped it. Did not know whether the gun was used in the meantime. Benjamin put too large a charge in the gun, about 6 inches, he drew it, and put in a regular charge. Witness did not see him loading, the weather was foggy, and she was loaded in the cabin. On Monday evening, all hands except Benjamin went below nearly at the same time. He did not know that prisoner complained of his head. Witness understands some words of English, but not more than half that the Counsel is now saying; he could direct Crane how to shape the wood to put under the spring of the gun by signs. Prisoner's head was raised in his birth by clothing put under it. Prisoner changed his head that evening to where his feet used to lie. Prisoner lay in a left side birth; he generally slept with his head to the forward part of vessel, but this evening his feet were placed that way. The gun must have been in prisoner's birth, witness did not see it there; it was in the prisoner's hands when witness seized it. The cabin was narrow, and the births not far apart. It could not have gone off by accident in the direction in which it was fired. Witness does not know what money was taken from St. John, after paying some small expenses at Arichat £6 remained. He does not know that the passengers knew there was any money on board. Crane was well behaved on board up to the Monday evening. When witness was steering, standing off the land, and no rocks in sight, prisoner asked him was he not afraid of the rocks? Witness asked, was he, Crane said he was quite afraid, he thought the Captain wanted to lose the vessel. He saw a piece of blue paper in the birth of the prisoner after the act was committed, he could not swear that it was that which was in the pan of the gun.

Some Witness questioned by a Juror. He was slightly wounded in the hand, on

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the night that the Captain was killed, by the knife which prisoner held; he could not say that prisoner stabbed him, he was wounded in the struggle, in the finger. Walsh told him that prisoner had the knife open in his hand.

Questioned by Judge Uniacke, Walsh said, about an hour before the Captain was killed, that Crane was deranged.

Questioned by Judge Haliburton. He did not think any one got into the hold to untie the prisoner. There were ways of getting down, but a watch was kept, and Walsh was on deck all the time. Prisoner wrote on the locker and on his hat with chalk several times in the cabin, and used to show it to Walsh and rub it off when Captain came down. Walsh said he could not understand it, and that prisoner wrote it with his left hand.

Benjamin Richards was called. This witness spoke English and French, and was examined in English by the Attorney General.

He was on board the schooner *Margurie*, Luke Richard master. They sailed from St. Johns Newfoundland about the middle of last summer, bound through the Gut of Canso. [Witness here detailed facts similar to those stated by last witness, respecting the course of the vessel, &c.] Witness loaded Crane's musket with powder and duck shot; he thought that he had put in too much, and drew it, and re-loaded. The gun was first discharged after his loading it, on the Monday evening. Witness was on deck steering, heard the report, it was a little after 8 o'clock, clear weather. He heard a cry, went to the cabin door, saw the Captain, and helped him on deck. He saw the wound, it was in the small of the back. Lavigny called him to bring a rope, he did so, and tied prisoner's feet himself. Lavigny and Walsh held him. They brought prisoner on deck, and brought the Captain below before he died. Up to this time the prisoner behaved like all the rest on board. He saw chalked writing which was rubbed off, did not know who wrote it. They were about 3 leagues off land, when the Captain was wounded.

Cross Examined by Mr. Uniacke. He was at the helm on Monday night. Nobody came on deck after he went to the helm until the gun was fired. The Captain had a loaded gun on board. The Captain's wound was not bandaged, no effort was made to staunch it, they rolled him in blankets. Crane's gun was thrown overboard. Walsh assisted willingly to secure the prisoner. Witness was the Captain's cousin.

Charles Richard, brother to the deceased, was called and examined, through the medium of the interpreter. [He corroborated the accounts given by the witnesses, respecting the vessel, crew and passengers.] On Monday night when the Capt. was shot witness was in the cabin sitting at the chimney, burning rags to make tinder. The Captain was near him on his knees; Walsh was at the opposite side, witness did not see the gun fired, his head was down. When he heard the report, he could see nothing on account of the smoke and darkness, the candle was put out by the discharge of the gun. Witness was greatly frightened, he ran on deck; heard the Captain say "Oh! I am shot." Witness got a light, Captain got on deck meantime; Witness saw the wound, it was about the middle of the back. When he brought the light below, the prisoner was down on the seat, Lavigny had hold of him, Walsh assisted. He saw the prisoner several times writing, scribbling, don't know that Walsh was with him; he scribbled with the knives and forks on the table and lockers. There was some money on board, he don't know that the passengers knew of it. Prisoner behaved very well until the Monday evening. He was a quiet, peaceable man; used to laugh and joke with the crew. The passengers eat by themselves, prisoner eat his supper on the Monday night, and seemed as usual.

Cross Examined by Mr. Uniacke. He could not read writing. He did not think anything was going to happen when the Captain was shot. Prisoner was in bed at the time. The Captain's gun was in his berth loaded. Prisoner's gun was thrown overboard.

The case for the prosecution closed here. Judge Haliburton addressed the prisoner, and told him if he had any witnesses to call in his behalf, this was the time to do so.

Mr. Uniacke said, that the prisoner understood that there were persons in Court who had heard Walsh speak of him, and he wished they might be examined. But he (Mr. Uniacke) was aware that the law would not allow of this kind of evidence. He

considered that the absence of any motive for the act, ought to argue the insanity of the prisoner; he could produce papers creditable to his character.

Here the Court interfered, and remarked that counsel could not address the Jury, and could only be allowed to address the Court on points of law. Mr. Uniacke sat down.

Judge Haliburton informed the prisoner that he might now address the Jury in his own defence.

The Prisoner, after some hesitation, bowed to the Court and Jury, and spoke to the following effect.

Gentlemen—I got a severe fall in Newfoundland last winter. I was insane some time after. I got insane on the passage and wanted the captain to put me ashore when we made land; he refused. On the Monday night, when the Captain and George came down, the captain took his gun from the birth; I thought it was to shoot me. I know nothing about what passed at the time; I don't know whether in getting out of bed I might have struck my gun with my feet. I recollect nothing that occurred. I might call several to testify as to my character.

The prisoner having concluded his brief defence, Judge Haliburton delivered the following Charge to the Jury in a very impressive manner.

Judge's Charge. Gentlemen, the present is a very painful duty both to the Court and the Jury. A fellow creature stands before you, to be tried on a most serious charge, and under circumstances more painful, than are usual even in such cases. In referring to the evidence, we are so perplexed to discover motives for this act, that if we had reasonable testimony to prove that the prisoner was subject to fits of lunacy, we would feel authorised to infer that he was under such influence at the time. But we are bound by the testimony here delivered, and not by any thing which may be heard out of Court. Gentlemen, on you the painful burden rests, to decide what inference must be drawn from the facts deposed to. You must satisfy yourselves, that the deceased came to his death by violence—of that there can be no doubt—you must also be satisfied that the prisoner discharged the gun at him with intent to kill him. You must also enquire whether the prisoner was so far in his right mind, that he was accountable for his actions at the time. It is my painful duty to state, that a man found acting generally according to ordinary circumstances, must be considered to be in his senses until the contrary be shown. Some proofs must be given, that the party, although going at large, was under an alienation of mind at the time, before he can get the benefit of such an excuse. We must first enquire whether the facts of this case are as is stated, and then whether the prisoner committed the act charged against him.

[Here his honor recapitulated the evidence, making occasional remarks as he proceeded.]

The struggle for the gun showed that it was not discharged by accident, as in that case all would be equally alarmed. The exclamation of the prisoner, was of importance; he does not deny the act, but says, that the captain was going to shoot him.—The answer is most extraordinary; no altercation had occurred between them, and in the face of every fact, to make such an assertion was unaccountable; it seemed the answer of a man labouring under delusion at the time. It would be most satisfactory, if proof were given that he had been previously affected in a similar manner.—It was indeed most extraordinary, that such an outrage should be committed without cause, and such an answer given; we would be inclined to think, that it could only be dictated by strong mental delusion.

Walsh's conduct is also of importance; and it is to be regretted that he could not be found to be produced in evidence to day. There appears no proof of collusion between the prisoner and him; only a small sum of money was on board, and of that being there the passengers were ignorant. The witnesses also state, that Walsh assisted to secure Crane when the act was committed.

The writing with chalk has been mentioned; this might have been an attempt to communicate some secret, or it might be mere symptoms of a wandering deluded mind. The changing of Crane's position in bed on that evening, has been dwelt upon; it does not appear to me of importance; for it would not at all have facilitated the commission of the act. The witness stated that Walsh told the captain, that Crane was going out of his mind; and here again we cannot but regret Walsh's ab-

sence. We cannot account for this absence; he has been seen in Halifax a few days since, and no doubt had heard of this trial. It is a matter generally known and has been mentioned in the newspapers of the town.*

In going over this evidence it seems certain that Luke Richard came by his death by the hands of the prisoner; and that he came by his death designedly. If the prisoner was responsible for his conduct at the time, the awful verdict of *guilty* must be given against him. Nothing can come between this, but insanity; and this must be determined by proof. It would not be necessary to shew that he was for a long time previously a maniac; but that he was not in his senses at the time of committing this act. You will be authorized, gentlemen of the jury, to consider him not responsible, if it shall appear that the Almighty had deprived him of his right mind at the time. The case is of an extraordinary nature; we see no anger, no malice, no inducement; I do not say that the absence of motive is sufficient, but I do say that it is important. We must connect it with the facts of this case before a decision is arrived at.

The case is one in which the whole community is implicated. If all who acted in an extraordinary manner, and without motive, were to escape, it would be most dangerous to the public peace. On the other hand, it is generally possible to come at the motives of offenders; and the absence of such makes much difficulty in the present instance. If Walsh were here some clue might be obtained, but as it is, all is involved in improbability. There was no money on board, no cargo, the vessel was of little value; they were several days at sea, and the crime was committed just off the land, as they were coming into Nova Scotia. Under such circumstances, gentlemen, your duty is a painful one. I do not say that you may not consider the prisoner to have been insane; but I know of no case in which such a decision was come to, without more proof than is now before us. The proof of crime is full, of excuse slight. I do not say there is no proof of the latter; the prisoner's conduct at the time, is sufficient to warrant some inference of that description; but I have looked anxiously for some circumstances which might connect themselves with this conduct, and absence of motive. You must look at the whole matter carefully; it is an awful duty; on one hand, you must not let a man escape who has taken the life of a fellow creature; on the other, if you consider seriously that he was insane at the time, you must be careful not to hold him responsible for acts done in that state.

Remember, gentlemen, no feelings of humanity should bias your verdict; you are called upon like 12 upright honest men, to try the prisoner, who might conceal motives with which the Devil momentary instigated him. Neither Jury nor Court has to do with Mercy; Mercy is lodged in other hands; we sit here to administer the law of the land; to do justice to the public, and not to allow murder to go unavenged. We must do justice to the prisoner also, and clear him of guilt, if we believe that he was deprived of reason at the time when the act was committed. This must not be done as an act of mercy, but of Justice.

Gentlemen I can give you no farther advice. I am sure that you will do your duty, as an English jury always does it; uninfluenced by fear or favour, and above dictation of any kind. May God assist you to find such a verdict as is best suited to the case before you.

The Jury retired. They returned in about an hour; and delivered a verdict of *Guilty*. The Judge addressed the prisoner in a most feeling and impressive manner, and passed sentence of death on him with peculiar solemnity. The sentence, mentioned the place of his execution, as being between high and low water mark; according to the law respecting offences committed on the high seas.

*His Honor was mistaken here; the time of trial was not by any means generally known; no Newspaper in Halifax gave notice of it. They had no authority to do so, and were only informed of it casually. A little attention to such means of publicity might not be ill bestowed by the Crown Officers, and others, in all cases of importance.